



95TH GENERAL ASSEMBLY

State of Illinois

2007 and 2008

SB0319

Introduced 2/7/2007, by Sen. William R. Haine

SYNOPSIS AS INTRODUCED:

New Act

Creates the Uniform Real Property Electronic Recording Act. Provides that a recorder may receive, index, store, archive, and transmit documents eligible to be recorded in the recorder's land records in the form of electronic documents, subject to certain requirements. Provides that, if a law requires a document eligible to be recorded in the recorder's land records to be an original, on paper or other tangible medium, or in writing, the requirement is satisfied by an electronic document satisfying the Act. Provides that, if a law requires that such a document be signed, the requirement is satisfied by an electronic signature. Provides that a requirement that a document or a signature be notarized, acknowledged, verified, witnessed, or made under oath is satisfied if the appropriate electronic signature and other required information is attached to or logically associated with the document or signature. Provides that the Illinois Electronic Recording Commission shall adopt standards to implement the Act. Provides specific requirements concerning recording, conversion of documents, administration, standards, and other matters.

LRB095 10815 AJ0 31066 b

FISCAL NOTE ACT
MAY APPLY

HOUSING
AFFORDABILITY
IMPACT NOTE ACT
MAY APPLY

1 AN ACT concerning civil law.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 1. Short title. This Act may be cited as the
5 Uniform Real Property Electronic Recording Act.

6 Section 2. Definitions. In this Act:

7 (1) "Document" means information that is:

8 (A) inscribed on a tangible medium or that is stored in
9 an electronic or other medium and is retrievable in
10 perceivable form; and

11 (B) eligible to be recorded in the land records
12 maintained by the recorder.

13 (2) "Electronic" means relating to technology having
14 electrical, digital, magnetic, wireless, optical,
15 electromagnetic, or similar capabilities.

16 (3) "Electronic document" means a document that is received
17 by the recorder in an electronic form.

18 (4) "Electronic signature" means an electronic sound,
19 symbol, or process attached to or logically associated with a
20 document and executed or adopted by a person with the intent to
21 sign the document.

22 (5) "Person" means an individual, corporation, business
23 trust, estate, trust, partnership, limited liability company,

1 association, joint venture, public corporation, government, or
2 governmental subdivision, agency, or instrumentality, or any
3 other legal or commercial entity.

4 (6) "State" means a state of the United States, the
5 District of Columbia, Puerto Rico, the United States Virgin
6 Islands, or any territory or insular possession subject to the
7 jurisdiction of the United States.

8 Section 3. Validity of electronic documents.

9 (a) If a law requires, as a condition for recording, that a
10 document be an original, be on paper or another tangible
11 medium, or be in writing, the requirement is satisfied by an
12 electronic document satisfying this Act.

13 (b) If a law requires, as a condition for recording, that a
14 document be signed, the requirement is satisfied by an
15 electronic signature.

16 (c) A requirement that a document or a signature associated
17 with a document be notarized, acknowledged, verified,
18 witnessed, or made under oath is satisfied if the electronic
19 signature of the person authorized to perform that act, and all
20 other information required to be included, is attached to or
21 logically associated with the document or signature. A physical
22 or electronic image of a stamp, impression, or seal need not
23 accompany an electronic signature.

24 Section 4. Recording of documents.

1 (a) In this Section, "paper document" means a document that
2 is received by the recorder in a form that is not electronic.

3 (b) A recorder:

4 (1) who implements any of the functions listed in this
5 Section shall do so in compliance with standards
6 established by the Secretary of State.

7 (2) may receive, index, store, archive, and transmit
8 electronic documents.

9 (3) may provide for access to, and for search and
10 retrieval of, documents and information by electronic
11 means.

12 (4) who accepts electronic documents for recording
13 shall continue to accept paper documents as authorized by
14 State law and shall place entries for both types of
15 documents in the same index.

16 (5) may convert paper documents accepted for recording
17 into electronic form.

18 (6) may convert into electronic form information
19 recorded before the recorder began to record electronic
20 documents.

21 (7) may accept electronically any fee or tax that the
22 recorder is authorized to collect.

23 (8) may agree with other officials of a state or a
24 political subdivision thereof, or of the United States, on
25 procedures or processes to facilitate the electronic
26 satisfaction of prior approvals and conditions precedent

1 to recording and the electronic payment of fees and taxes.

2 Section 5. Illinois Electronic Recording Commission.

3 (a) To adopt standards to implement this Act, there is
4 established as an autonomous entity within the Department of
5 Financial and Professional Regulation the Illinois Electronic
6 Recording Commission, consisting of 9 members as follows:

7 (1) Five members who are county recorders
8 representative of counties of varying size, population,
9 and resources appointed by Illinois Association of County
10 Clerks and Recorders;

11 (2) One member appointed by the Illinois Land Title
12 Association;

13 (3) One member who is an attorney appointed by the
14 Illinois State Bar Association;

15 (4) One member of the mortgage industry appointed by
16 the Illinois Mortgage Bankers Association; and

17 (5) The Secretary of Financial and Professional
18 Regulation or the secretary's designee.

19 (b) In the event that any of the appointing associations
20 above no longer represent a majority of the members of their
21 profession, the Commission may, by a 2/3 vote, substitute a
22 different association which represents a greater plurality of
23 the same profession.

24 (c) Each appointing association shall set its own rules
25 regarding the qualifications and process for selecting its

1 appointees.

2 (d) Appointing associations are required to submit
3 nominations in writing, to the Chairman, 15 days before the
4 expiration of any term. If, by the first meeting of the
5 Commission following, the association has failed to appoint a
6 Commissioner, the Chairman shall nominate and the Commission by
7 majority vote approve, a duly qualified member of the same
8 profession the association represents, who shall assume the
9 office for the full term.

10 (e) The Commission shall be organized under the following
11 rules:

12 (1) Upon this Act becoming law, the President of the
13 Illinois Association of County Clerks and Recorders, or his
14 designee, shall become Acting Chairman of the Commission.
15 Within 10 days the Acting Chairman shall solicit, in
16 writing, appointments to the Commission by the chief
17 officer of each of the appointing associations and the
18 Secretary. Upon receipt of six nominations in writing, the
19 acting Chairman shall set a time and place of the first
20 meeting of the Commission to take place within 30 days.

21 (2) Within 60 days of its first meeting the Commission
22 shall by a 2/3 vote adopt by-laws to govern its operation
23 and elect a Chairman and other officers that it deems
24 necessary.

25 (3) The Commission shall meet at least once every year
26 with the times and places of meetings within the State of

1 Illinois to be determined by the Chairman and approved by
2 majority vote of the Commission.

3 (4) Six members of the Commission constitute a quorum.

4 (5) Commission members shall receive no compensation
5 for their services but may be reimbursed for reasonable
6 expenses directly related to their duties as Commissioners
7 and participation at Commission meetings.

8 (6) Commission members shall serve terms of 3 years,
9 which shall expire on December 1st. Three Commission
10 members first taking office, including at least one county
11 recorder, shall serve terms of one year and 3 years,
12 including at least one recorder, two years, to be
13 determined by lot. The calculation of the terms in office
14 of the first commissioners shall begin on the first
15 December 1st after commissioners have served at least 12
16 months in office. The Commission shall notify the Secretary
17 of the name, address, and related affiliation, if any, of a
18 Commission member within 30 days after the appointment of
19 the member to the Commission.

20 (7) The Chairman shall declare a Commission member's
21 office vacant immediately after receipt of a written
22 resignation, death, or when a member fails to attend 3
23 consecutive meetings, and shall notify the appointing
24 association of the vacancy within 10 days. The appointing
25 association shall fill the unexpired term within 30 days or
26 by the next meeting of the Commission, whichever is the

1 longer time and shall notify the chairman in the manner the
2 Commission establishes. Failing to do so, the office shall
3 be appointed by the Chairman at the next meeting of the
4 Commission, to be affirmed by a majority vote of the
5 Commission members.

6 (f) The Illinois Electronic Recording Commission shall
7 adopt standards to implement this Act.

8 (g) To keep the standards and practices of county recorders
9 in this state in harmony with the standards and practices of
10 recording offices in other jurisdictions that enact
11 substantially this Act and to keep the technology used by
12 county recorders in this state compatible with technology used
13 by recording offices in other jurisdictions that enact
14 substantially this Act, the Illinois Electronic Recording
15 Commission, so far as is consistent with the purposes,
16 policies, and provisions of this Act, in adopting, amending,
17 and repealing standards shall consider:

18 (1) standards and practices of other jurisdictions;

19 (2) the most recent standards promulgated by national
20 standard-setting bodies, such as the Property Records
21 Industry Association; the views of interested persons and
22 governmental officials and entities;

23 (3) the need for security protection to ensure that
24 electronic documents are accurate, authentic, adequately
25 preserved, and resistant to tampering.

26 (h) The Electronic Recording Commission shall review the

1 statutes related to real property and the statutes related to
2 recording real property documents and shall recommend to the
3 legislature any changes in the statutes that the council finds
4 necessary or advisable.

5 (i) The Department of Financial and Professional
6 Regulation shall provide administrative support to the
7 Commission, including the preparation of the agenda and minutes
8 for Commission meetings, distribution of notices and proposed
9 rules to Commission members, and reimbursement for expenses of
10 Commission members.

11 (j) Subject to review and approval of the Commission, the
12 Department of Financial and Professional Regulation shall
13 promulgate by rule the standards adopted, amended, or repealed
14 by the council under this paragraph.

15 Section 6. Uniformity of application and construction. In
16 applying and construing this Uniform Act, consideration must be
17 given to the need to promote uniformity of the law with respect
18 to its subject matter among states that enact it.

19 Section 7. Relation to electronic signatures in Global and
20 National Commerce Act. This Act modifies, limits, and
21 supersedes the federal Electronic Signatures in Global and
22 National Commerce Act (15 U.S.C. Section 7001, et seq.) but
23 does not modify, limit, or supersede Section 101(c) of that Act
24 (15 U.S.C. Section 7001(c)) or authorize electronic delivery of

1 any of the notices described in Section 103(b) of that Act (15
2 U.S.C. Section 7003(b)).